

## Motion to Extend Automatic Stay

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### Docketing Event

Bankruptcy > Motions/Applications/Objections > Motion to Extend Automatic Stay

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**Negative Notice:** N/A

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**Accompanying Orders:** N/A

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### Code and Rule References:

[11 U.S.C. § 362](#)

[Fed. R. Bankr. P. 4001\(a\)\(1\)](#)

[Local Rule 4001-1](#)

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**Fee:** N/A

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**Applicable Chapters:** 7, 11, 12, 13

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**Implemented:** 2/9/2016

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**Last Revision:** 1/23/2018 9:43:04 AM

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### Description

Upon filing a petition, an automatic stay is imposed. The stay requires creditors to cease actions against the debtor and the debtor's property as described in 11 U.S.C. § 362(a). The stay continues until either the case is dismissed or closed or, in an individual case, until the granting or denial of discharge.

Creditors may file a motion under 11 U.S.C. § 362 requesting the stay be lifted to allow them to pursue a particular piece of property. Those motions are most often titled Motion for Relief from Stay.

One exception arises when an individual files a new bankruptcy petition but had **two or more** cases dismissed within the previous year. In that situation, the automatic stay does not take effect. 11 U.S.C. § 362(c)(4)(A)(i). Creditors sometimes seek "comfort orders" from the Court confirming that the stay is not in effect. In situations where the stay does not go into effect, a party in interest, including the debtor, may request the stay be imposed. 11 U.S.C. § 362(c)(4)(B).

In situations where a debtor files a new bankruptcy petition but had **one** case dismissed within the previous year, the automatic stay is imposed for 30 days. After the 30th day passes, the automatic stay terminates. 11 U.S.C. § 362(c)(3)(A). A party in interest, including the debtor, may file a Motion to Extend the Automatic Stay beyond that initial 30-day period. 11 U.S.C. § 362(c)(3)(B).

This procedure discusses requests to extend the temporary 30 day stay resulting from one prior dismissal of a bankruptcy case in the prior year. The movant must demonstrate a "substantial change in the financial or personal affairs of the debtor" since the dismissal of the prior case.

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### Filing Checklist

Review the motion to determine if it:

- Is signed;

- Has the attorney's name and address complete and consistent with the filing attorney's name and address in CM/ECF;
- Is properly served and includes a proper certificate of service; and
- States a substantial change in circumstances that justifies the extension of the temporary stay.

The movant's attorney will be directed to prepare, serve, and docket the notice of hearing unless the debtor is *pro se*. If *pro se*, the Clerk's office will issue the notice to all parties and creditors.

- ❖ **Note:** Motions to Extend the Automatic Stay should be filed within seven days of the petition.

After the hearing, the prevailing party shall submit an order.

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### **Forms**

[Motion to Extend the Automatic Stay](#)

[Order Granting Motion to Extend Automatic Stay](#)